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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,583	11/10/2003	Johnny R. Kennedy SR.	KEJR5001AP	4287
29889	7590	02/24/2005	EXAMINER	
OLIVE & OLIVE, P.A. 500 MEMORIAL STREET PO BOX 2049 DURHAM, NC 27702			NELSON JR. MILTON	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,583

Applicant(s)

KENNEDY, JOHNNY R.

Examiner

Milton Nelson, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) 26 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☒ Claim(s) 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/22/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information referred to in Applicant's information disclosure statement has been considered.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 110, 120, and 130. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

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The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it includes legal phraseology ("means"). Correction is required.

Claim Rejections - 35 USC § 112

Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with indefiniteness.

Examples are as follows: In lines 1 to 2 of claim 1, "the type" lacks proper antecedent basis. In claim 1, it is unclear if Applicant intends to positively claim the combination of a seat belt system and a seat with seat frame, or the subcombination of a seat belt system for use with a seat and seat frame. Line 1 appears to set forth the subcombination. Note the recitation "a seat belt system adapted for use with a seat having a seat-belt ready seat frame". Line 17 appears to set forth the combination.

Note the recitation of a back cover portion of the seat belt system "fixedly attached to said seat frame". In lines 20 to 21 of claim 1, it is unclear if "said retractor seat belt" is intended to be the same feature as the previously set forth "retractor belt". In line 21 of claim 1, it is unclear if "said seat belt" is intended to be the previously set forth "retractor belt" or the previously set forth "retractor seat belt". In claim 2, it is unclear if Applicant intends to positively claim the "seat frame". Note the recitation of "bolts bolting said

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housing unit to said seat frame at one end and straps strapping said housing unit to said seat frame at an opposite end". In claim 3, it is unclear if Applicant intends to positively claim the seat frame. Note the recitation "is secured below, and extends between said front and rear bar portions of said bottom seat frame". In claim 4, it is unclear if Applicant intends to positively claim the seat frame. Note the recitation "is secured by a bolt to the underside of said rear bar portion of said bottom seat frame and by straps to the front bar portions of said bottom set frame". In claim 5, it is unclear if "said retractor seat belt" is intended to be the same feature as the previously set forth "retractor belt". Claims 6-12 are indefinite since each depends from an indefinite claim. In the last line of claim 14, it is unclear if "a seat belt retractor" is intended to be the same feature as the retractor previously set forth in claim 1. Claim 15 is indefinite since it depends from an indefinite claim. In claim 16, it is unclear if "said seat belt system" is intended to be the previously set forth "seat belt system", or another "seat belt system". In claim 17, it is unclear if Applicant intends to positively claim the combination of a seat belt system and a seat structure with a seat frame, or the subcombination of a seat belt system for use with a seat structure and seat frame. Line 1 appears to set forth the subcombination. Note the recitation "a seat belt system adapted for use with a seat structure ...". Lines 7 to 8 appear to set forth the combination. Note the recitation of a base "secured to, and below selected bar portions of said bottom set frame". Lines 13 to 14 appear to set forth the combination. Note the recitation "located rearwardly of said bottom seat frame rear bar portion". Line 18 appears to set forth the combination. Note the recitation "being secured at one end to said bottom seat frame". Line 20 appears to

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set forth the combination. Note the recitation "being secured at one end to said bottom set frame". In claim 18, it is unclear if "said seat-belt system" is intended to be the same as the previously set forth "seat-belt system" or an additional "seat-belt system". Claims 19-21 are indefinite since each depends from an indefinite claim. In claim 22, it is unclear if Applicant intends to positively claim the combination of a seat belt system and a seat structure with a seat frame and cushion, or the subcombination of a seat belt system for use with a seat structure and seat frame. Line 1 appears to set forth the subcombination. Note the recitation "a seat belt system adapted for use with a seat structure ...". Lines 7 to 8 appear to set forth the combination. Note the recitation of a base "secured to, below, and extending between said front and rear bar portions of said bottom set frame". Line 15 appears to set forth the combination. Note the recitation "located rearwardly of said bottom set frame rear bar portion". Line 16 appears to set forth the combination. Note the recitation "passing through an upper portion of said back cushion". Line 19 appears to set forth the combination. Note the recitation "secured at one end to said bottom seat frame". Line 21 appears to set forth the combination. Note the recitation "secured at one end to said bottom set frame. In claim 23, it is unclear if "said seat-belt system" is intended to be the same as the previously set forth "seat-belt system" or an additional "seat-belt system".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) he has abandoned the invention.

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4). of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

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Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

(f) he did not himself invent the subject matter sought to be patented.

(g)(1) during the course of an interference conducted under section 135 or section 291, another inventor involved therein establishes, to the extent permitted in section 104, that before such person's invention thereof the invention was made by such other inventor and not abandoned, suppressed, or concealed, or (2) before such person's invention thereof, the invention was made in this country by another inventor who had not abandoned, suppressed, or concealed it. In determining priority of invention under this subsection, there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

Claim 24 is rejected under 35 U.S.C. 102(b) as being anticipated by Makinen (3451720). Note the shoulder belt (22), first connector (34), seat belt webbing (28), Y-junction (36), second connector (40), third connector (38), lap belt (18), and fourth connector (32).

Claim 24 is rejected under 35 U.S.C. 102(b) as being anticipated by Jantzen (3418007). Note the shoulder belt (31), first connector (32), seat belt webbing (unlabeled lap belt at 8), Y-junction (8), second connector (36), third connector (27, 28), lap belt (unlabeled belt that is secured to 1), and fourth connector (1).

Allowable Subject Matter

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Claim 25 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Restriction/Election

Applicant's election with traverse of Group 1, claims 1-6, 8, 10, 14, 15, 17, 20, 21, 22, 24 and 25 is acknowledged. Applicant's arguments regarding non-elected Group 2 are now moot. Claims directed to Group 2 have been found to depend from elected generic claims that contain allowable subject matter. Similarly note claims directed to Groups 3 and 4, with the exception of non-elected claims 26 and 27. Non-elected claims 26 and 27 have been withdrawn from further consideration. These claims fail to depend from elected claims that contain allowable subject matter. Applicant argues that claims directed to Groups 3 and 4 represent alternative seat belt systems that could be used in retrofitting a seat belt ready seat frame that is set forth in the independent claims. Such does not negate patentable distinction between the groups and their respective claims. Applicant further argues that all groups represent seat belt systems that are assigned to the Examiner's art unit. This also fails to negate patentable distinction between the groups and their respective claims. Also, treatment of the claims of the patentably distinct groups renders a serious burden on the Examiner in that each claim requires consideration and search. The requirement is still deemed proper and is therefore made FINAL.

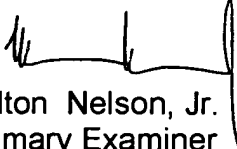
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. A vehicle seat associated retractor assembly is shown by each of Brewer (6676219) and Elton (5280995).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is 7033082117. The examiner can normally be reached on Monday-Wednesday 5:30-3:00, and alternate Fridays 5:30-3:00.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Milton Nelson, Jr.
Primary Examiner
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February 22, 2005